

Yeung (Migration) [2018] AATA 2620 (8 June 2018)

DECISION RECORD

DIVISION: Migration & Refugee Division

APPLICANTS: Ms Yuk Ha Yeung
Ms Sze Hang Suen
Mr Chi Hang Suen

CASE NUMBER: 1701370

DIBP REFERENCE(S): BCC2016/2809853 BCC2017/4287183

MEMBER: Adrienne Millbank

DATE: 8 June 2018

PLACE OF DECISION: Brisbane

DECISION: The Tribunal affirms the decisions not to grant the applicants Partner (Temporary) (Class UK) visas.

Statement made on 08 June 2018 at 3:34pm

CATCHWORDS

Migration – Partner (Temporary) (Class UK) visa – Subclass 820 (Partner (Temporary)) – Contravened relationship – Credibility issues – Visa applicant's travel records inconsistent with original claims – Incorrect information supplied to the Department – Partner application to achieve a migration outcome – Lack of knowledge of each other's personal lives – Decision under review affirmed

LEGISLATION

1. *Migration Act 1958 (Cth)*, ss 5CB, 5F, 65
Migration Regulations 1994 (Cth), r 1.15A Schedule 2 cls 820.211

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

2. This is an application for review of a decision of a delegate of the Minister for Immigration on 23 January 2017 to refuse to grant the applicants Partner (Temporary) (Class UK) visas under s.65 of the *Migration Act 1958* (the Act).
3. The first named applicant (the applicant) applied for the visa on 24 August 2016 on the basis of her relationship with her sponsor. At that time, Class UK contained only one subclass: Subclass 820 (Partner (Temporary)). The criteria for the grant of this visa are set out in Part 820 of Schedule 2 to the Migration Regulations 1994 (the Regulations). The primary criteria must be satisfied by at least one applicant. Other members of the family unit, if any, who are applicants for the visa need satisfy only the secondary criteria.
4. The Delegate refused to grant the visas on the basis that the applicant did not satisfy cl.820.211(2)(a). The evidence and information provided was not sufficient to demonstrate to the Delegate that she was the spouse or de facto partner of the sponsor, as defined under section 5F and 5cB of the Migration Act. Further, the Delegate had received information, through a dob-in, that the relationship was contrived for the purpose of the visa application.
5. The Delegate did not accept the explanation for the information in the dob-in subsequently provided by the parties. In the record of decision, addressed to the primary applicant, the Delegate stated:

On 6 December 2016, you and your sponsor were requested to attend a phone interview with a Departmental officer in order to discuss your application.

On 14 December 2016, you and your sponsor were interviewed separately by phone about your relationship. During your interviews you were asked to provide information about how and when you first met. You both responded according the same answer that had been provided in your application that you first met at a car yard on 15 August 2015.

At the end of the interview you were informed that the Department had received adverse information concerning you and your sponsor. The information provided details of how you and your sponsor first met, including that you and your sponsor met through an Introduction Agency in Brisbane and suggested you were looking for an Australian citizen partner to sponsor you for a visa.

You were informed that you would have an opportunity to formally respond in writing, however, you were offered an opportunity to verbally respond to the comments if you wished. You stated at the time that you were unsure why anyone would say that. You then asked – ‘Was it the Agency?’

On 15 December 2016 you were provided with procedural fairness and offered an opportunity to respond to the adverse information before the Department. In your submission and supporting documentation, you and your sponsor admit to having lied about the circumstances of your first meeting, and that in fact you did meet through an Introduction Agency.

You provided several reasons why you decided to change your story. However the main reasons appear to be because you felt uncomfortable at your age telling people how you met and; you had an ongoing dispute with the Introduction Agency and feared repercussions of not paying them outstanding money they claimed you owed.

Whilst I acknowledge your claims, and perhaps why you may have felt uncomfortable with some of your friends, I am not convinced that this was your only motivation for concealing the truth. Nor does it explain why you felt it necessary to provide false information to the Department in your application and to continue to do so, even when offered an opportunity to correct this. It seems you were only willing to come clean with the information once you knew the Department had all the information.

6. The applicant appeared before the Tribunal on 9 May 2018 to give evidence and present arguments. The Tribunal also received oral evidence from the sponsor, the secondary applicants, and two supporting witnesses. The Tribunal hearing was conducted with the assistance of an interpreter in the Cantonese and English languages.
7. The applicant was represented in relation to the review by her registered migration agent, who attended the hearing.
8. At the hearing, the Tribunal advised the applicant that it had information that would lead or could contribute to the decision under review being affirmed. It advised that this information comprised the international movement records of the parties; and documents related to the dob-in, including copies of the parties' agreements with the introduction agency, and notes provided by the person who provided the information to the Department, advising that the relationship was contrived for the purpose of obtaining migration outcomes. The applicant was advised she would be provided with the opportunity to respond fully to questions and issues arising from the information when they were raised during the hearing; that she could seek advice from her representative; and that she could request an adjournment. The parties stated that they were familiar with the dob-in information and knew it came from the introduction agency. The applicant was advised by her representative several times during the hearing, but did not seek an adjournment.
9. Prior to and at the hearing the parties provided further evidence of relationship to the Tribunal, including photographs of their wedding in September 2017, and of their honeymoon trip to Vietnam. They offered no further explanation regarding the incorrect information they provided at the time of application, other than to claim that they believed themselves to have been ill-served by their previous migration agent, and that the applicant was forgetful.
10. On 25 May 2018, following the hearing, the parties provided a statutory declaration from the sponsor, in response to a letter from the Tribunal, pursuant to s.359A of the Act, seeking comment, by 25 May 2018, on information provided at hearing that would or could lead to the decision under review being affirmed. This information, and the sponsor's responses to the particulars, are addressed below.
11. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.

CONSIDERATION OF CLAIMS AND EVIDENCE

12. The primary applicant (the applicant) was born in China in 1972. She declared one previous marriage, which ended in divorce in July 2011. She has two children from this marriage, a daughter born in 1995 and a son in 1997, who are the secondary applicants. At the time of application the daughter was studying 'interpreting and translating' in Hong Kong, and her son was enrolled in an institution in Australia, studying English. At the time of decision, both of the secondary applicants are in Australia, enrolled in courses in business management.
13. The applicant first visited Australia from 10-28 November 2014 on a Tourist (subclass 601) visa. She returned on 21 February 2015 on a Student (subclass 572) visa, on which she departed and returned a number of times. During her time in Australia on the Student visa

she claimed she undertook some English courses. On 24 August 2016, she lodged the Partner visa application, and was granted a Bridging A visa.

14. The Sponsor was born in Germany in 1959. He migrated to Australia in 1986 and obtained Australian citizenship by grant in 1988. He declared one previous marriage, which ended in divorce in 2011. He has no children from this marriage.
15. The parties at the time of application claimed that they first met in a car yard when they were both shopping for new cars, on 18 August 2015. Following the dob-in to the Department and their interviews, they acknowledged that they met through an introduction agency.
16. The parties claimed at the time of application that the applicant moved in with the sponsor and they entered into a de facto relationship on 14 September 2015. The sponsor claimed that he proposed marriage and the parties became engaged in May 2016. They registered their relationship on 10 June 2016. The application was refused on 23 January 2017. The parties married in Brisbane on 14 October 2017.
17. The issue in the present case is whether the applicant and the sponsor were in a genuine de facto relationship at the time of application, and a genuine spousal relationship at the time of decision.
18. Clauses 820.211(2)(a) and 820.221 require that at the time the visa application was made, and at the time of this decision, the applicant is the spouse or de facto partner of an Australian citizen or Australian permanent resident or an eligible New Zealand citizen. In the present case, at the time of this decision, the applicant claims to be the spouse of the sponsor who an Australian citizen.
19. 'Spouse' is defined in s.5F of the Act and provides that a person is the spouse of another where the two persons are in a married relationship. Persons in a married relationship must be married to each other under a marriage that is valid for the purposes of the Act, there must be a mutual commitment to a shared life as a married couple to the exclusion of all others, the relationship must be genuine and continuing, and the couple must live together, or not live separately and apart on a permanent basis: s.5F(2)(a)-(d). In forming an opinion about these matters, regard must be had to all of the circumstances of the relationship. This includes evidence of the financial and social aspects and the nature of the parties' household and their commitment to each other as set out in r.1.15A(3), which is extracted in the attachment to this decision.
20. If the parties are validly married, they may meet the requirements of a spousal relationship, but not a de facto relationship. The parties lodged the application on the basis of being in a de facto relationship, and at the time of application provided a Queensland Civil Partnership Certificate, certifying that they registered their relationship in Brisbane on 10 June 2016. To the Tribunal, they provided a copy of a Commonwealth Certificate of Marriage, certifying that they married at Ashmore Steak and Seafood Restaurant, on 14 October 2017. At hearing, the sponsor provided evidence in the form of a copy of a Queensland Marriage Certificate, that the parties registered their marriage, in Brisbane, on 21 November 2017. On the evidence, the parties were married to each other under a marriage that is valid for the purposes of the Act as required by s.5F(2)(a).

Are the other requirements for a spousal relationship met?

Financial aspects of the relationship

21. Statements of transactions were provided from the parties' joint bank account, for periods from 2015 to 2018. These show irregular deposits, through bank transfers, of large amounts,

for example \$10,000 on 11 November 2015; \$9,000 on 2 May 2016; and \$20,000 on 11 May 2016. At hearing the applicant confirmed that these transfers were from her bank accounts in Hong Kong.

22. The statements also show weekly deposits, from the sponsor, of \$350, identified as 'rent'. They do not show that the sponsor's earnings were deposited into the account, and they do not show that a joint household was established or managed through the account, for example through the purchase of significant items of furniture, or payment of utilities. At hearing, the sponsor confirmed that the account was used by the applicant; that his earnings went into his personal bank account; and that he used his personal account for his own expenses, such as the purchase of petrol and alcohol, as well as sometimes buying groceries and other household goods.
23. When asked why he transferred money from his personal account into the joint account, and labelled it 'rent', the sponsor stated that the joint account was opened, on advice, for the purpose of the visa application, and that his 'rent' transfers were to provide the appearance of joint usage. In his response to the s.359A letter advising that this was information that would lead or could contribute to the decision being affirmed, the sponsor stated that the joint account was in fact opened on 26 August 2015, 10 months prior to the parties' receiving advice from their former migration agent. The Tribunal notes that the parties at the time of application claimed that they first met at a car sales outlet on 18 August 2015, and entered into a relationship on 14 September 2015. The Tribunal further notes that at hearing the parties admitted that they could not in fact have met in person until the last week of August 2015, but claimed they could not recall the exact date. As discussed below, the applicant acknowledged that she was out of the country from 6 June – 21 August 2015, and that she only signed up with the dating agency that put her in contact with the sponsor as a prospective marriage partner, on 22 August 2015.
24. The sponsor further claimed in his statutory declaration of 25 May 2018 that as a native German speaker his answers to questions could sometimes be 'misrepresented and misunderstood'. The Tribunal notes that the sponsor has lived in Australia for 32 years. At hearing, he neither displayed nor claimed any difficulty expressing himself in English. He did not seek the assistance of an interpreter. The Tribunal does not accept that his answers to questions were 'misrepresented and misunderstood' by the Tribunal. On the basis of the evidence provided, the Tribunal finds that the parties' joint bank account was contrived for the purpose of the visa application.
25. The Tribunal asked the applicant about her overseas bank accounts. She stated that she had two accounts in Hong Kong, at the Bank of China, and HSBC, and another account in China. She stated that she rarely used the bank account in China.
26. When the Tribunal asked the applicant about what assets the sponsor had, she said that he owned nothing; that he lost his property and savings in his divorce. She advised that he did not earn much income through his cabinet-making and handyman business. She stated that she knew he had his own bank account, into which his earnings were deposited, but didn't know how much he had in it. She guessed 'a few thousand'. She stated that the applicant contributed to the household through his practical, handyman assistance and cooking, rather than through financial support.
27. When the Tribunal asked the sponsor what the applicant owns overseas, that is, what assets she has, he stated that he knew that the applicant owned an apartment in Hong Kong, from which she received rental, but that he didn't know what other assets she held. When the Tribunal asked the sponsor how much the applicant had in her bank accounts in Hong Kong and China, he stated that he had no idea. He stated that he knew that she was 'of

independent means', but claimed that he had no knowledge of, or interest in, how wealthy she was.

28. In response to the s.359A letter advising that this was information that would or could lead to the decision being affirmed, the sponsor, in his statutory declaration of 25 May 2018, declared that it was his strong personal and cultural belief 'to not want to know about the applicant's financial position or wealth prior to them getting together'; that he believed this to have been 'a good gesture in cementing a true and sincere relationship'; and that he was not attracted to the applicant based on how rich or poor she was. The Tribunal notes that the sponsor acknowledged that he had no idea about the applicant's financial situation at the time of this decision, which is two years and nine months after the parties opened a joint bank account, and two years and eight months after he claimed to have entered into an exclusive, committed de facto relationship with the applicant. The Tribunal finds the sponsor's explanation unconvincing, and his ignorance and real or feigned indifference regarding the applicant's financial situation to be not consistent with his claim to have been in a genuine de facto relationship at the time of application, and to be in a genuine spousal relationship at the time of decision.
29. At hearing, the applicant claimed that the parties have one joint asset, a bubble-tea business, purchased through a family trust comprising the applicant and the sponsor, but registered only in the name of the sponsor. The applicant claimed that this was for legal reasons, and argued that it showed her commitment to the sponsor and the relationship. She confirmed that she paid for the business, and that its current resale value is in the order of \$50,000. The applicant acknowledged that she manages and works in this business, but claimed that the sponsor has assisted as an occasional handyman, and by doing some cooking for the business at home. The Tribunal accepts that the sponsor has provided some practical assistance for the business as a handyman and through some home cooking, but does not find that this demonstrates the business is the joint venture of a couple in a genuine spousal relationship.
30. The Tribunal accepts on the evidence provided that the parties, while living in the same house, since April 2016, have shared household expenses, albeit with by far the largest share paid by the applicant. The Tribunal accepts that they have joint liabilities in the form of rental agreements for their shared house and the bubble tea business premises. However, for the reasons that the Tribunal finds the parties' joint bank account to be a contrivance for the purpose of the visa application, and the sponsor at the time of decision has 'no idea' of the financial situation of the sponsor, the Tribunal finds that the parties have limited pooling of their financial resources.

Nature of the household

31. The parties claimed that the applicant moved in with the sponsor a week or two after their first meeting, as she needed to find accommodation, and the sponsor thought it would be a good way of seeing if they were compatible as a couple. They claim they moved from the sponsor's one-bedroom apartment in Southport to their current address in Ashmore in April 2016. A copy of a joint tenancy agreement was provided, for the period 1 April 2016–31 March 2017. Evidence was provided in the form of mail addressed to both parties, that they have lived at the same address. The sponsor's friend and landlord, and other declarants, in statutory declarations signed in 2016, stated that they knew the parties to be living together.
32. At the time of application the applicant claimed that the sponsor paid the rent and utilities bills, and 'most of the time' did the cooking, washing and cleaning. She stated that she purchased the groceries. Evidence was provided that the sponsor is listed as a driver of the applicant's car. No evidence was provided that the parties ever jointly purchased any significant household items, such as furniture.

33. In response to questions at hearing the sponsor revealed that he did not know what the applicant's daughter, a secondary applicant, was studying in Hong Kong in 2015 and 2016, or where and how she was living. He acknowledged further that he did not contribute financially to the support of the applicant's children, including their tuition and accommodation and other living expenses in Australia. He stated that he had no idea whether the applicant's children, the secondary applicants, received financial support from their biological father.
34. In response to the s.359A letter advising that this was information that would or could lead to the decision being affirmed, the sponsor in his statutory declaration of 25 May 2018 explained that the applicant's daughter was shy when she met him in Hong Kong because he is large and imposing and she is used to petit and small-framed Hong Kong men, like her biological father. He reiterated that he chose not to intrude or pry into 'the history of his new-found family' as he believed that leaving their past behind was the best remedy for the applicant's children's broken-down relationship with their biological father. He argued that this showed that he is a patient man. He pointed out that at the time of decision he knew what the applicant's daughter is studying in Australia.
35. The Tribunal accepts that the sponsor met the applicant's daughter in Hong Kong but notes his acknowledgement that their interaction was limited. The Tribunal is of the view that if the sponsor was in the genuine relationship with the applicant that he claimed, and in the close step-father relationship with the applicant's children that he claimed, he would know basic facts about the applicant's daughter's life in Hong Kong before she came to Australia in May 2017. The Tribunal finds the sponsor's explanation regarding his lack of knowledge about the applicant's daughter's life in Hong Kong weak and unconvincing.
36. At hearing the parties stated that the applicant's son lived his own shared rented student accommodation while in Australia on Student visas; that he moved in with them for some months in early 2017, but moved out before the applicant's daughter arrived from Hong Kong in May 2017. The secondary applicants in testimony at hearing stated that they have got on well with the sponsor during periods they have spent in the house, and that they have observed him to get on well with their mother. They claimed that it 'felt like a family' on occasions when they got together. They also acknowledged, however, that they have maintained contact with their biological father.
37. The Tribunal accepts that the parties have shared the same accommodation for two years, since April 2016, and that they have shared in the housework, but does not find, on the evidence provided, including of their financial arrangements, that they have established and managed a joint household as a genuine de facto or spousal couple. The Tribunal accepts that the sponsor gets along with the applicant's children, but notes that the secondary applicants were both adults when they met the sponsor; that they have maintained their relationships with their biological father; and that they are fully financially supported by their mother. The secondary applicants did not claim at hearing to have received care and support from the sponsor as a step-father, and the Tribunal does not find, on the evidence provided, that the sponsor has shared in the care and support of the applicant's children beyond what would be consistent with a housemate in a shared household.

Social aspects of the relationship

38. Photos were provided of the parties' wedding, attended by the applicant's children and friends of the parties. The Tribunal drew the sponsor's attention to a claim that he made at the time of application, that he proposed marriage to the applicant in May 2016. The Tribunal asked the sponsor why, as he had proposed marriage, he and the applicant registered their relationship as a de facto couple, in June 2016. The sponsor appeared confused, and then stated that the parties registered their relationship when they did on the advice of their then

agent, for the purpose of the visa application. In response to the s.359A letter advising that this was information that would or could lead to the decision being affirmed, the sponsor, in his statutory declaration of 25 May 2018, stated that it was 'true' that the parties 'obtained a Certificate of De Facto Relationship in October 2016' (sic). He acknowledged that the parties believed at the time that this would be sufficient for the visa application, but argued that the fact they married, later, shows that they are in a genuine relationship. He explained that in the hearts and minds of traditional German families, a traditional wedding provides a 'happily ever after' memory.

39. In response to the question at hearing as to why the parties did not marry rather than registering their relationship in June 2016, as they had announced their engagement in May 2016, the sponsor stated that he wanted his mother to attend his wedding, and she required notice in order to travel from Germany. When the Tribunal pointed out that his mother had not intended his wedding held after the visa refusal, he stated that his mother was unable to travel this time because of back pain. He claimed that the parties planned 'a honeymoon occasion' (a well-photographed trip to Vietnam), which was 'celebrated in the presence of his cousin and friends on her behalf'.
40. The applicant had stated at hearing that he married the applicant in October 2017 because he is in love with her, and felt the need to register the relationship at a higher level than de facto. He acknowledged that none of his family members attended his wedding, at the Ashmore Seafood and Steak restaurant. The Tribunal notes that the parties married after the refusal of the visa application and the lodgement of their appeal to the Tribunal, and before the hearing. The Tribunal notes that on the sponsor's own acknowledgement, the parties registered their relationship when they did for the purpose of the visa application, and finds the sponsor's explanations regarding the reason and timing of his marriage unconvincing.
41. Five statutory declarations were provided, signed in August and September 2016, by friends, former business associates, colleagues, and the parties' landlord. Most are brief, with the declarants stating that they knew and socialised with the parties as a couple, and knew or observed that they lived together. In one, a friend of the sponsor stated that he had met the applicant on three to four occasions, socially. In another, a friend of the applicant stated that she met the sponsor in February 2016; observed that the parties were 'in true love'; and could vouch for the genuineness of the relationship because when the sponsor 'did surprise propose' in May 2016, the applicant immediately phoned her to express her surprise and delight. The parties' landlord, in a statutory declaration signed 13 October 2016, stated that she had observed the parties to be living together, and that she also believed their relationship to be genuine because they became engaged to be married in May 2016. The Tribunal finds the claims in these declarations overblown and questionable, for the reason that the parties did not marry following their May 2016 engagement or 'surprise propose'; rather, they registered their relationship as a de facto relationship.
42. In another declaration, a former co-worker of the applicant stated that she knew the parties at the beginning of their relationship. At hearing, the Tribunal asked the parties what they had told their friends and acquaintances, including those who signed the statutory declarations, about the inception of their relationship, that is, how they met each other. The sponsor stated that he told declarants that he met the applicant at a car salesroom, when they were both looking at cars, and where he provided assistance to the applicant because of her limited English. The applicant stated that she told declarants that she met the sponsor through her landlord.
43. The Tribunal accepts that friends and acquaintances have supported the parties' claim to be in a relationship, and that they support the visa applications, but places little weight on their observations regarding the genuineness of the relationship. The Tribunal notes that many of the declarants' observations are based on incorrect information regarding the nature of the

parties' meeting, and on questionable information regarding the sponsor's marriage proposal.

44. The Tribunal accepts, on the basis of the large number of photographs provided, showing the parties on outings and eating with the applicant's children and friends and acquaintances in Australia; with family members of the applicant in Hong Kong; and travelling with some members of the sponsor's extended family from Germany in Vietnam; that the parties have planned and undertaken joint social activities.
45. No written statements in support of the relationship were provided by members of the sponsor's family. The Tribunal accepts from the evidence provided, including witness statements from friends at hearing, that the parties have represented themselves to other people as a de facto or married couple; that friends support their claim to be in a relationship; and that they support the visa applications. On the basis of the evidence provided, the Tribunal finds that the parties have some social recognition as a couple.

Nature of persons' commitment to each other

46. As noted, the parties claimed at the time of application that they first met on 15 August 2015, and, despite the fact that they had to communicate with the assistance of an internet translating application, they entered into an exclusive, committed, de facto relationship on 14 September 2015 when the applicant moved into the sponsor's rented flat. The Tribunal pointed out to the applicant that her international movement records show that she was out of the country from 6 June – 21 August 2015. Further, evidence provided through the dob-in showed that the applicant only signed up with the Introduction Agency through which she met the sponsor, on 22 August 2015. The applicant then stated that she was forgetful. The sponsor argued that dates don't matter; that the parties felt such an immediate connection on their first meeting, whenever and however this came about, that they decided to move in together without delay.
47. The Tribunal asked the applicant why she was looking for a marriage partner at a time she was in the country on a temporary Student visa, and why she was looking for a marriage partner in Australia when she didn't speak much English. She explained that she was lonely and her landlady told her she could get a boyfriend through the introduction agency. The Tribunal asked the sponsor why he agreed to meet, as a potential marriage partner, someone on a temporary visa, who didn't speak English. The sponsor explained that he has never taken any notice of the applicant's immigration status, and that he preferred Asian women. The sponsor migrated to Australia in 1986 at the age of 27. When he met the applicant, she was 43 years old, on a temporary Student visa and looking for a partner. The Tribunal finds the sponsor's claim to have been oblivious of the applicant's need for a visa to remain in Australia implausible, and the parties' claim that they fell in love at first sight, unconvincing.
48. The Tribunal finds no reason, having considered the evidence and the circumstances of the parties, to doubt the information in the dob-in that the applicant was seeking a partner for the purpose of a migration outcome for herself and her children; and that she had advised the agency that her close family, including her ex-husband, had told her that she didn't need to marry in order to obtain a Partner visa; that a relationship certificate would suffice. The Tribunal acknowledges that a motivation to obtain a migration outcome does not preclude the possibility of a genuine relationship, but in this case does not find the evidence supports that the parties were in a genuine relationship at the time of application, or that their relationship developed into a genuine relationship.
49. The Tribunal noted that the parties' representative in a written submission claimed that the parties 'never intended to deceive anyone'. The Tribunal asked the sponsor why, in that

case, they provided lengthy written statements, embellished with considerable detail, describing a romantic and memorable first meeting, which were false, and obviously intended to deceive. The parties stated that they were ill-advised by their previous agent. The Tribunal asked the sponsor why he claimed to be so embarrassed by his use of an introduction agency that he lied to his friends about the nature of his introduction to the applicant, given that he described himself at hearing as a long-term user of the agency. The sponsor in response stated that he provided the same written explanation as the applicant, on the advice of her then agent. He indicated that he was not in fact embarrassed about using the introduction agency, and that he had been introduced to at least seven or eight Asian women, whom he preferred, through the agency in the years before he met the applicant.

50. The applicant at hearing stated that she would have paid the agency the remainder of the money owing, and thus obviated the dob-in, but the sponsor advised her not to, because he considered the \$3000 she paid sufficient for one introduction.
51. The parties claimed that they have travelled together. The Tribunal accepts, on the evidence provided, that the parties have travelled together to Sydney and the Sunshine Coast; that they met up together in Hong Kong in 2016, although they did not travel on the same flights together; and that they travelled together to Vietnam for three weeks in October-November 2017. The Tribunal notes that an elaborate annotated photographic record of this honeymoon trip was produced by the sponsor's cousin, who accompanied the parties.
52. The applicant and the sponsor claimed in their written statements and at hearing that they love each other and are committed to sharing a life together in Australia, and that they plan to purchase a house together, if the visa is granted. The parties have shown themselves prepared to lie for the purpose of the visa application, and for this reason the Tribunal does not accept their claims to have provided each other with companionship and emotional support consistent with a genuine spousal relationship; their claims regarding their future plans and mutual commitment; or their claims to see the relationship as long-term.
53. The Tribunal accepts, from the photographic and other evidence that the parties have lived together for two years. The Tribunal has found that the parties have some social recognition as a couple. The Tribunal finds evidence regarding the duration and social recognition of the relationship outweighed by evidence indicating the relationship was contrived from the outset for the purpose of the visa applications, and is not satisfied that the relationship ever developed into a genuine relationship.
54. Having considered r.1.15A(3) matters and the circumstances of the parties, the Tribunal is not satisfied that they have a mutual commitment to a shared life as a married couple to the exclusion of others, and is not satisfied that they are in a genuine and continuing relationship.
55. On the basis of the above, the Tribunal is not satisfied that the requirements of s.5F(2) are met. Therefore the applicant does not meet cl.820.221. The parties claimed at the time of application to be in a de facto relationship and to meet the requirements of s.5CB. As the Tribunal has found that the parties do not meet the requirements of s.5F(2) at the time of this decision, it is not necessary to further consider whether they met the time of application criteria.
56. Alternative criteria (death, family violence, child exceptions) are not relevant to the applicant's circumstances, and she has made no claims against these criteria.
57. As the applicant does not meet cl.820.221, the secondary applicants do not meet cl.820.321.

58. For the reasons above, the applicants do not satisfy the criteria for the grant of the visa.

DECISION

59. The Tribunal affirms the decisions not to grant the applicants Partner (Temporary) (Class UK) visas.

Adrienne Millbank
Member

ATTACHMENT - Extract from Migration Regulations 1994

1.15A Spouse

- (1) For subsection 5F (3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5F (2) (a), (b), (c) and (d) of the Act exist.
- (2) If the Minister is considering an application for:
 - (a) a Partner (Migrant) (Class BC) visa; or
 - (b) a Partner (Provisional) (Class UF) visa; or
 - (c) a Partner (Residence) (Class BS) visa; or
 - (d) a Partner (Temporary) (Class UK) visa;

the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).

- (3) The matters for subregulation (2) are:
 - (a) the financial aspects of the relationship, including:
 - (i) any joint ownership of real estate or other major assets; and
 - (ii) any joint liabilities; and
 - (iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and
 - (iv) whether one person in the relationship owes any legal obligation in respect of the other; and
 - (v) the basis of any sharing of day to day household expenses; and
 - (b) the nature of the household, including:
 - (i) any joint responsibility for the care and support of children; and
 - (ii) the living arrangements of the persons; and
 - (iii) any sharing of the responsibility for housework; and
 - (c) the social aspects of the relationship, including:
 - (i) whether the persons represent themselves to other people as being married to each other; and
 - (ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
 - (iii) any basis on which the persons plan and undertake joint social activities; and
 - (d) the nature of the persons' commitment to each other, including:
 - (i) the duration of the relationship; and
 - (ii) the length of time during which the persons have lived together; and
 - (iii) the degree of companionship and emotional support that the persons draw from each other; and
 - (iv) whether the persons see the relationship as a long term one.
- (4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).